

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA**

IN RE:

THEODORE A. HAYWOOD)	CASE NO. 08-006317-5-ATS
STACEY B. HAYWOOD)	
DEBTORS)	CHAPTER 13

MOTION TO VALUE COLLATERAL AND DETERMINE STATUS OF CLAIMS

NOW COME the debtors pursuant to section 506 of the Bankruptcy Code and Bankruptcy Rule 3012, and move the court to value their residence for the purpose of determining the secured or unsecured status of the creditor holding the second mortgage, third mortgage, and a Homeowner's association claim of lien on their home. In support of this motion, the debtors show the court as follows:

1. The debtors filed a petition under chapter 13 on September 15, 2008.
2. The debtors' residence is located at 1010 Delta River Way, Knightdale, NC 27545.
3. The Ocwen Mortgage has a lien on the residence for approximately \$250,989.46, which is the paramount lien on the property.
4. Ocwen Mortgage ("Ocwen #2") holds a second deed of trust on the debtors' residence in the amount of \$65,081.67.
5. Sallie Mae has a third mortgage in the amount of \$18,500.00.
6. Talis Management has a fourth lien on the property in the amount of \$2,383.19, which is unpaid homeowner's dues.
7. The fair market value of the residence is no greater than \$245,000.00.
8. Pursuant to § 506 of the Bankruptcy Code and In re Kidd, 161 B.R. 769 (Bankr. E.D.N.C. 1993), the liens of Ocwen #2 and Sallie Mae, which are secured by a second and third deed of trust, and Talis Management secured by a claim of lien are all unsecured claims.

WHEREFORE, the debtors move that the court find that the liens of Ocwen #2 and Sallie Mae secured by a second and third deed of trust, and the lien of Talis Management secured by a claim of lien are all unsecured claims on their residence and are wholly unsecured and should be classified as unsecured claims for the purpose of this bankruptcy case. The debtors further move the court to order Ocwen #2, Sallie Mae and Talis Management to cancel the deed of trusts and claim of lien upon completion of the chapter 13 plan and the granting of the debtors' discharge pursuant to 11 U.S.C. § 1328(a).

DATED: 11/5/08

S/: William E. Brewer, Jr. ____
William E. Brewer, Jr.
State Bar No. 7018
619 N. Person St.
Raleigh, NC 27604
(919) 832-2288

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NOTICE OF MOTION

The attorney for debtors has filed papers with the court to value collateral and determine status of claim.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the **Motion to Value Collateral and Determine Status of Claims**, or if you want the court to consider your views on the motion, then on or before 11/24/08, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at:

US Bankruptcy Court
300 Fayetteville Street Mall
PO Box 1441, Raleigh, NC 27604

If you mail your request/response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

John F. Logan, Trustee
PO Box 61039
Raleigh, NC 27661-1039

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated: 11/5/08

S/: William E. Brewer, Jr.
William E. Brewer, Jr.
State Bar No. 7018
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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Motion to Value Collateral was served on the names listed below by depositing a copy of the same in the United States mail, postage prepaid, addressed to each party of record as set forth below:

Theodore & Stacey Haywood
1010 Delta River Way
Knightdale, NC 27545

Ocwen Mortgage
Attn: Managing Agent
12650 Ingenuity Drive
Orlando, FL 32826-2793

Sallie Mae
Attn: Managing Agent
PO Box 9500
Wilkes Barre, PA 18773-9500

Talis Management Group
Attn: Managing Agent
PO Box 99149
Raleigh, NC 27624

The following will be served by electronic notice:

John F. Logan
Chapter 13 Trustee
jfl@ralch13.com

This the 5th day of November, 2008.

S/: Deana M. Leggett
Deana M. Leggett